

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Eighteenth Judicial District Court, County of Gallatin

STATE OF MONTANA,)	
)	
Plaintiff,)	
)	CAUSE NO. DC-05-036
-vs-)	
)	DECISION
BRIAN ROBERT LUTZ,)	
)	
Defendant.)	

On November 23, 2016, the District Court revoked the Defendant's suspended sentence for violating the conditions of his probation and sentenced the Defendant as follows: A commitment to the Montana State Prison for a period of ten (10) years, with no time suspended, for the offense of Count I: Negligent Vehicular Assault, a felony, in violation of §45-5-205, MCA. The Court granted the Defendant credit for time served in the amount of 368 days on probation and 36 days of incarceration.

On May 4, 2017, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4th day of May, 2017.

DATED this 31 day of May, 2017.

SENTENCE REVIEW DIVISION



Hon. Brad Newman, Chairperson



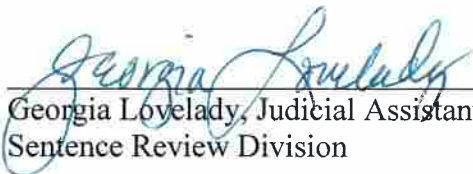
Hon. Kathy Seeley, Member



Hon. Brenda Gilbert, Member

Copies mailed this 2nd day
of June, 2017, to:

Clerk of District Court (Original)
Brian Robert Lutz #2104167, Defendant (2)
Hon. Michael Salvagni
Brent Getty, Defense Counsel
Eric Kitzmiller, Esq.
Board of Pardons and Parole
MSP - Records Dept.


Georgia Lovelady, Judicial Assistant
Sentence Review Division